

REMARKS/ARGUMENTS

I. EXAMINER DISCUSSION

Applicants thank the Examiner for his time and courteousness in clarifying the outstanding rejections with Applicants' representative, Dr. Kenneth Jenkins, on November 5, 2009.

II. STATUS OF THE CLAIMS

Claims 3, 10, 12, 15, 18, 19, 21, 22, 24 and 61 are amended and claims 66-79 are added. Claims 1, 2, 4, 9, 11, 20, 25-60, and 62-65 are cancelled without prejudice to future prosecution. Therefore, with entry of this amendment, claims 3, 5-8, 10, 12-19, 21-24, 61 and 66-79 are pending.

Support for the amendments to claims 3, 10, 12, 15, 18, 19, 21, 22, 24 and 61 and new claims 66-79 may be found throughout the specification and original claims as filed. For example, support for claims 66-79 may be found at pages 9, 26, 30, 31 and 33 of the specification as well as the original claims as filed. Therefore, no new matter is entered with this amendment.

III. REJECTIONS UNDER 35 U.S.C. §112, SECOND PARAGRAPH – INDEFINITENESS

The Examiner has rejected claims 3, 5-8, 10-25, 47, 51-54, 58 and 60-62 as allegedly indefinite. More specifically, the Examiner states that the terms "comprises," "an oxo group bound to a carbon atom," and "conjugated" render the definition of E unclear. The Examiner also states that the terms "carboxylic ester" and "carboxamide" in the definition of R^2 are unclear; and that the definition of R^5 is unclear. For the purpose of expediting prosecution, Applicants have amended the claims to remove the allegedly unclear terms in the definition of E, the definition of R^2 , and the definition of R^5 .

The Examiner additionally states that the terms "substituted" and "heterocyclic" are unclear as recited in the pending claims. With regard to the term "heterocyclic," Applicants

respectfully submit that a person having ordinary skill in the art would immediately understand the meaning of this term after reading the pending claims and Applicants' specification. As set forth in paragraph [0042] of Applicants' specification, a heterocyclic refers to saturated or unsaturated cyclical moieties containing carbon atoms in the ring and additionally one or more hetero atoms selected from oxygen, nitrogen, sulfur and or phosphorus.

With regard to the term "substituted," representative substitutions contemplated by the current claims are disclosed in the specification at, for example, paragraphs [0038], [0042], [0043], [0044], Fig. 1, Fig.3 and Fig. 5. Accordingly, the meaning of the term "substituted" would be immediately clear to a person having ordinary skill in the art after reviewing the pending claims and Applicants' specification. Furthermore, Applicants respectfully submit that the USPTO "has not established why the skilled artisan would not understand the metes and bounds of" the term 'substituted' "in light of the definition provided by the Specification." *See Ex Parte Hicks and Brookhart, Id.* at page 9.

Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

IV. REJECTION OF CLAIMS 47, 51-54, 59 AND 61-62 UNDER 35 U.S.C. §112, FIRST PARAGRAPH – ENABLEMENT

Claims 47, 51-54, 59 ad 61-63 stand rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the enablement requirement. In order to expedite prosecution of the pending claims, claims 47, 51-54, 59 ad 61-63 have been cancelled without prejudice to future prosecution. Therefore, Applicants respectfully request withdrawal of the enablement rejections.

Appl. No. 10/552,847
Amdt. dated November 18, 2009
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 1624

PATENT

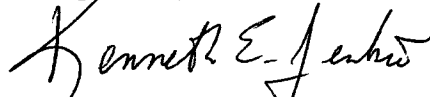
CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 20-1430.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kenneth E. Jenkins", written over the printed name.

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